

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SHANE TAYLOR BURNS,

Plaintiff,

vs.

NDCS MENTAL HEALTH DEPT.,

Defendant.

8:23CV53

MEMORANDUM AND ORDER

This matter is before the Court on correspondence from Plaintiff, which the Court has docketed as a motion for an extension, for status, and for the appointment of counsel. [Filing No. 10](#).

First, Plaintiff requests an extension of time to pay his initial partial filing fee. Upon consideration, Plaintiff's request is granted and he shall have until May 11, 2023, to pay his initial partial filing fee of \$8.28.

Next, Plaintiff asks, “[W]hat is the next step in my case after the partial fee has been paid? Is my case still on Docket call in Omaha, NE?” [Filing No. 10 at 1](#). Construing Plaintiff's questions as a motion for status, Plaintiff's motion is granted. As the Court advised Plaintiff in its March 9, 2023 Memorandum and Order granting him leave to proceed in forma pauperis, “following payment of the initial partial filing fee, the next step in Plaintiff's case will be for the Court to conduct an initial review of Plaintiff's claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#).” [Filing No. 9 at 3](#). The Court is required to review prisoner and in forma pauperis complaints seeking relief against a governmental entity or an officer or employee of a governmental entity to determine whether summary dismissal is

appropriate. See 28 U.S.C. §§ 1915(e) and 1915A. The Court must dismiss a complaint or any portion of it that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); 28 U.S.C. § 1915A(b).

Thus, once Plaintiff pays his initial partial filing fee, the Court will review Plaintiff's Complaint to determine whether it must be dismissed pursuant to 28 U.S.C. §§ 1915(e) and 1915A or whether Plaintiff's case may proceed to service of process. The Court will conduct this initial review in its normal course of business *after* Plaintiff pays his initial partial filing fee.

Finally, Plaintiff states that he "need[s] an attorney to represent [him] & [his] case when the time comes." Filing No. 10 at 1. Plaintiff previously requested the appointment of counsel in a letter the Court docketed as a motion for counsel on March 2, 2023. Filing No. 7. The Court will address Plaintiff's request for appointment of counsel when it conducts its initial review of Plaintiff's Complaint.

IT IS THEREFORE ORDERED that:

1. Plaintiff's correspondence, Filing No. 10, construed as a motion, is granted as follows:
 - a. Plaintiff's request for an extension of time is granted. Plaintiff shall have until **May 11, 2023**, to pay his initial partial filing fee of \$8.28.
 - b. Plaintiff's motion for status is granted. Plaintiff is advised that, following payment of the initial partial filing fee, the next step in Plaintiff's case will be for the Court to conduct an initial review of

Plaintiff's claims to determine whether summary dismissal is appropriate under 28 U.S.C. §§ 1915(e) and 1915A. The Court will conduct this initial review in its normal course of business and will address Plaintiff's request for appointment of counsel at that time.

2. The Clerk of Court is directed to set a pro se case management deadline using the following text: **May 11, 2023**: initial partial filing fee payment due.

Dated this 11th day of April, 2023.

BY THE COURT:



Joseph F. Bataillon
Senior United States District Judge